



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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DA 02-2102
Released: August 28, 2002

**DOMESTIC SECTION 214 APPLICATION FILED FOR AUTHORIZATION OF NORTH
AMERICAN COMMUNICATIONS CONTROL, INC., TO ACQUIRE ASSETS OF A.R.C.
NETWORKS, INC.**

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 02-267

On July 3, 2002, A.R.C. Networks, Inc. d/b/a InfoHighway ("A.R.C.") and North American Communications Control, Inc. ("NACC"), pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214 (the "Act"), filed an application for approval to transfer control of certain assets from NACC to A.R.C.¹ The assets are NACC's customer base (and corresponding accounts receivable) in 19 states, including local exchange customers in New York, and long distance customers in Arizona, California, Connecticut, Florida, Georgia, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Texas, Utah, Vermont, and Virginia.

Applicants assert that this application is subject to streamlined processing under section 63.03(b)(2)(i) of the Commission's rules because the proposed transaction would result in the transferee, A.R.C. (and its affiliates), having a market share in the interstate, interexchange market of less than 10 percent; the transferee would provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange that is not a party to this transaction; and neither of the applicants is dominant with respect to any service.²

A.R.C. is a wholly-owned subsidiary of ARC Networks, Inc., a Delaware corporation

¹ This application was resubmitted to the Wireline Competition Bureau on August 26, 2002. See Letter from Susan M. Hafeli, Shaw Pittman LLP to William Dever, Assistant Chief, Competition Policy Division (filed Aug. 26, 2002).

² 47 C.F.R. § 63.03(b)(2)(i).

("ARC-Parent"). ARC-Parent is a wholly-owned subsidiary of InfoHighway Communications Corporation ("ICC"), a Delaware corporation. GTCR Fund VII, L.P., a private equity firm located at 200 W. Madison Ave., 17th floor, Chicago, IL 60606, holds 71.4 percent of the equity of ICC.

The applicants have agreed to a multi-step transaction for the purposes of transferring NACC's customer base and accounts receivable to A.R.C. subject to receipt of requisite regulatory approvals. This transaction will not result in a change in control of either party. For the purposes of effectuating the transfer, the applicants have executed an Asset Purchase Agreement (the "Agreement"), effective May 31, 2002. Pursuant to this Agreement, NACC will transfer its customer base to a subsidiary of A.R.C., NACC Acquisition Management, Inc. ("NACC-AM"), in exchange for cash and ICC preferred stock. Upon NACC's sale and NACC-AM's acquisition of the customer base of NACC, ICC, as ultimate parent, will take the necessary actions to merge NACC-AM into A.R.C. As a result, A.R.C. will be the entity providing telecommunications services to current NACC customers.³

Applicants state that the transaction will serve the public interest, convenience, and necessity because it will promote competition in the provision of domestic telecommunications services. Applicants state that acquisition of the customer base of NACC will enable A.R.C. to expand its customer base, allowing it to increase revenues and thereby to compete more effectively in local and interexchange telecommunications markets.

GENERAL INFORMATION

The transfer of control application identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days** and **reply comments within 21 days** of this notice.⁴ Unless

³ A.R.C. is a non-dominant carrier that provides telecommunications services to small- and medium-sized business, residential customers, and government entities in over 20 states. A.R.C. is currently certified to provide facilities-based and/or resold local exchange service in Arizona (interim authority), California, Connecticut, Delaware (conditional), the District of Columbia, Florida, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, and Vermont. Its affiliate, InfoHighway of Virginia, Inc., is authorized to provide facilities-based and resold local services in Virginia. A.R.C. is also authorized, pursuant to certification, registration, or deregulation, to provide intrastate interexchange services in Arkansas, California, Connecticut, Delaware (conditional), Florida, Illinois, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Utah, Vermont, and Virginia. A.R.C. has filed applications requesting authority to provide interexchange services in the states of Georgia, Minnesota and South Carolina. A.R.C. also provides international telecommunications services as a non-dominant carrier. See File No. ITC-96-032 (March 14, 1996).

⁴ See 47 C.F.R. section 63.03(a).

otherwise notified by the Commission, an applicant is permitted to transfer control of the domestic lines or authorization to operate on the 31st day after the date of this notice. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893.
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: twilson@fcc.gov, and

- (3) Bill Dever, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: wdever@fcc.gov; and
- (4) Nandan Joshi, Office of General Counsel, 445 12th Street, S.W., Room 8-A820, Washington, D.C. 20554; e-mail: njoshi@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

For further information, please contact Tracey Wilson, at (202) 418-1394 or Bill Dever, Competition Policy, Wireline Competition Bureau at (202) 418-1578.

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